Supreme Court, U.S.
FILED

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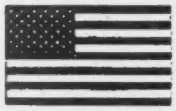

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In The

Supreme Court of the United States

AKHENATEN A. SLMBEY© et al., vs. STATE OF GEORGIA et al.,

On Petition for Writ of Certiorari To The State Court of DeKalb County State of Georgia

PETITION FOR WRIT OF CERTIORARI

Prepared By:
"We the People, All Rights Restored and Reserved, Never Waived,"

:Akhenaten-Amen'Ra:S' L' M-Bey©

:Akhenaten –Amen'Ra :S' L' M-Bey©,
WITHOUT PREJUDICE, U.C.C. 1-308 & 1-207;
Non-Domestic Non-Resident
c/o :P.O.Box 10559
:Atlanta, :Georgia, Near [30310],
(404) 805-6926

Questions for Review:

Will this Court, as a "Creation of Remedy," according to 28 U.S.C.S. § 2201(a), "declare the Rights and other legal Relations," in which the Petitioner has asserted on Record in the lower courts, pursuant to, but not limited to, 8 U.S.C.S. § 1503(a), 1101(a)(22)(A), 28 U.S.C.S. § 1257(a), in a Declaratory Judgment?

If the Fourteenth Amendment guarantees that no State shall make or enforce any law depriving any person of "life, liberty, or property, without due process of law," or denying any person the "equal protection of the laws," will this Court respond with strong remedial and preventative measures?

Shall it be determined that prejudicial and discriminatory weapons is prevalent throughout the Nation against **Hakhdar Preamble People-Posterity Citizens of the United States of America Government in the Family of Nations, as I have claimed, pursuant to the Constitution of/for the United States (of America), Art. 4, sec. 1, and "on Relation of" court case 3:05CV2, U.S. District Court, W. Dist. of N.C., inter alia.,** as well as, against "pro per" litigants?

Is it a contradiction to vital principles necessary to maintain the traditional separation of powers & due process, when the improper exercise of enforcement power impersonating judicial officer with powers to issue writs of summons?

Question raised of misjoinder & Manufactured Diversity due to denial of motion for "lack of jurisdiction" 8 U.S.C.S. § 1503(a), 1101(a)(22)(A), claimed on record of lower courts, as **Hakhdar Preamble People-Posterity Citizen of the 1782—present "seal" United States Republican Form of Government in the Family of Nations** [5 U.S.C.S. § 1501(1) Non-Partison]?

Drawn in question, pursuant to 28 U.S.C.S. § 1257(a), Where, "**any title, right, privilege, or immunity, is specially setup or claimed under the Constitution or the treaties or statutes of,...**" may be reviewed by this Court, substantiated after a history of sufficient Official Notice(s), such as in the form of, but not limited to, Replevy, Extraordinary Writ of Quo Warranto, Claim of Rights, Privileges, & Immunities, pursuant to 8 U.S.C.S. § 1503(a), 1101(a)(22)(A), along with Application for National State of Emergency/State of Emergency, via; (1) Judicial Dept. **(since yr, 1999)** (2) Executive Dept, **(since yr, 1999, under Pres. William Jefferson Clinton, Administrative Government)?**

Is an error in form or citation, substantive to deny "due process" by holding "pro per" litigants to the standard of years of trained & experienced lawyers, our servants, against the People whom the Judicial Powers are to serve as a symbol of equitable American Jurisprudence?

Is there a congruence and proportionality between Constitutionality of "due process" and civil matters,

statutes, color of law raised to a level of a crime without a victim?

Can the integrity of the doctrine of Separation of powers be in jeopardy when law enforcement is both witness and complainant for the State, as well as, server of writs of summons; allusively navigating between law enforcement, judicial officer and witness?

Is it Constitutional to raise a color of law, traffic infraction to level of a crime, without due process of law, indictment by a grand jury?

Is it correct that where a State has a system of individual exemptions, it may not refuse to extend that system [494 U.S., 884]? [license to do an illegal/ act]

Is it a criminal violation to imprison for a debt (fine) or probationary "work detail" which is "involuntary servitude or slavery" when the Constitution of Georgia and 13th Amendment clearly prohibits?

Is Congress granted remedial power to make the substantive constitutional prohibitions against the States, effectively, "the power... to protect by national law the privileges and immunities of all the citizens of the **Republic**... whenever the same shall be abridged or denied by the unconstitutional acts of any State." [Cong. Globe, 39th Cong., 1st Sess., @ 2542]?

Is object of 14th Amendment to preclude legislation by any State which shall "abridge the privileges or immunities of citizens of the United States"?

Does Separation of powers aspect "provide[s] safeguards to be enforced by the courts," Cong. Globe, 39th Cong., 1st Sess., @ 1064; "was left entirely for the courts." [Cong. Globe, 39th Cong., 1st Sess., @ App.133]?

Is the power to "legislate generally upon" life, liberty, and property, as opposed to the "power to provide modes of redress" against offensive state action, "repugnant" to the Constitution. Civil Rights Cases, 109 U.S. 3, 13-15 (1883); *United States v. Reese*, 92 U.S. 214, 218 (1876); *United States v. Harris*, 106 U.S. 629, 639 (1883); *James v. Bowman*, 190 U.S. 127, 139 (1903)?

Does the Court invalidate prescribed criminal penalties which are on the grounds that it exceeded Congress' or State power by seeing to regulate **private** conduct *Civil Rights Cases*, 109 U.S. 3 (1883)?

Does the provisions of the Bill of Rights, as enacted, confer substantive rights against the States which are **self-executing.** Cf. *South Carolina v. Katzenbach,* 383 U.S., @ 325?

Has the Court continued to acknowledge the necessity of using strong remedial and preventative measures to respond to the widespread and persisting deprivation of constitutional rights resulting from this country's history?

Is the denial by the State trail court, under protest and objection, of my claims, property, and evidence officially filed in the record, and without due process, of **DISCOVERY, F.R.C.P. Rule 26—(f)**, consistent with "equal protection" clause and "privileges & immunity" clause, an **ERROR of Law.**

According to Law, is the "Lack of Original Jurisdiction" and the timely claim of lack of jurisdiction from the defendant, grounds for compelling reasons for this Court to exercise discretionary Power to grant review on a writ of certiorari or a writ of error, due to deprivation of rights, privileges, and immunities?

Is under threat, duress, coercion, and "Contempt of Court" to proceed under protest for lack of jurisdiction and the proceedings, without due process of Law, an **ERROR of Law** for deprivation of rights, privileges, and immunities?

List of All Parties to the Proceeding

All parties appear in the caption of the case on the cover page.

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Table of Cited Authorities

A. **Contitution of/for the United States (of America)**
B. Articles of Confederation
C. **3:05CV2, U.S. District Court, W. Dist. of N.C.,**
D. Cong. Globe, 39th Cong., 1st Sess.,
E. Constitution of Georgia
F. Am. Jur.
G. Bill of Rights
H. *United States v. Reese*, 92 U.S. 214 (1876)
I. *Civil Rights Cases*, 109 U.S. 3 (1883)
J. United States Code
K. *United States v. Harris*, 106 U.S. (1883)
L. *James v. Bowman*, 190 U.S. (1903)
M. *South Carolina v. Katzenbach,* 383 U.S.,
N. Federal Rules Civil Procedures
O. Official Code Georgia Annotated
P. N.J. v People of N.Y. (1831) 30 US 284
Q. Dusenberry vs. Dusberry, 625 N.E. 2d 458 (md. App. 1 Dist. 1993)
R. Graff vs. Kelly, 814 P. 2d 489 (Oki. 1991).
S. Orner vs. Shalala, 30 F. 3d (Colo. 1994),
T. Alicock vs. Allcock 437 N.E. 2d. 392 (111. App. 3 Dist. 1982).
U. Hale vs. Henkel., US. 43;
V. Yates vs. Village of Hoffman Estates, Illinois, 209 F. Supp. 757 (N.D. Ill. 1962)

Statement of the basis of Jurisdiction

IN THE HAKH OF THE LAW OF NATIONS, THE SUPREME LAW OF THE LAND AND THE GUARANTEED REPUBLICAN FORM OF GOVERNMENT, NOW COMES, "We the People", All Rights Restored and Reserved, Never Waived, **Honorable :Akhenaten-Amen'Ra :S'L'M-Bey©, Hakhdar, Amicus Curia**, Preamble-Posterity Qualified natural born Citizen-Representative of the United States of America [General] Government, in the Family of Nations, and **Free Inhabitant** Common Law Resident of Georgia Republican Form of Government [Non-Partison]; and **"Frenchman"** and **"Stranger"** to ***the United States*** pursuant to, but not limited to, Title 28 U.S.C. Chpt. 176, sec. 3002 (15)(A)(B)(C) and the 14th Amendment Citizenship "subject" to "said" United States, standing in his Propria Persona as Sui Juris for himself, and Authorized Representatives of the Incompetent and Indigent Defendant/Counter Plaintiff, unwittingly made surety by the allusive **STATE OF GEORGIA**; by Special Appearance and not by General, on Appeal as Relator of facts and issues before this Court. This Petitioner reserves all his God given and all other UNALIENABLE rights within this Petition, without prejudice. This Petitioner (s) avers to wit:

This Petitioner filing this Petition for Writ of Certiorari & Writ of Error, on or before August 19th, 2008, pursuant to **Rule 1(3)**, and **5 U.S.C. § 6103,** for this Petitioner to timely file his Petition for Writ of Certiorari & Writ of Error; pursuant to **Rule**

13(1) of the Rules of the Supreme Court of United States and **28 U.S.C. § 2101(c)**.

This Petitioner/Affiant Victim and Relator to information of facts and conclusion of law puts the lower State Court on Notice that this Petition for Writ of Certiorari is being properly and timely filed against the void order of the Supreme Court of Georgia, May 19, 2008, and was allegedly entered into the records of the Supreme Court of Georgia Clerk's office on May 19, 2008: Supreme Court of Georgia - May 19, 2008, Order: Motion for Reconsideration, Stay of Remittur & Supersedeas, Denied; March 31, 2008, Denial of Petition for certiorari, All Justices concur.

Exceptional circumstances exist that are compelling reasons to Warrant the exercise of this Court's Judicial Discretion. Namely, Criminal cases on review from State courts shall have priority and are characterized as such, in **28 U.S.C. § 2102** "of public importance." Other character of reasons this Court considers is when a state court has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court. According to Law, the "Lack of Original Jurisdiction" and the timely claim of lack of jurisdiction from the defendant, are grounds for compelling reasons for this Court to exercise discretionary Power to grant review on a writ of certiorari or a writ of error. "Supreme Court may exercise its original jurisdiction in suits against **state**" N.J. v People of N.Y. (1831) 30 US 284, 8 L Ed 127." "Controversies...—between

a State a State and Citizens of another State" such as exist in this case upon which jurisdiction was challenged.

This Court has Jurisdiction "in Law and Equity, **ARISING** under "this" Constitution, the Laws of the United States, and Treaties..." is a cause of great concern, gravity, and importance to the public & private for the **preservation of OUR "NATIONAL TREASURES"** which so distinguishes **US** [*United States*] as the "FREE." C.U.S.A Article 4 sec. 2 & 4. and 8 U.S.C.S. §1101(a)(22)(A), 1503(a 1503(a),

Concise Statement of case

WHEREAS before and during trail court proceedings I entered in the record and raised objections to MISJOINDER OF PERSONS BY COLOR OF LAW, BASED ON PRESUMPTIONS OF FICTICOUS PERSONS AS FLESH IN BLOOD PROPRIA PERSONA, SUI JURIS. Relief was due from a void judgment and is available when trial court lacked either personal or subject matter jurisdiction, pursuant to Dusenberry vs. Dusberry, 625 N.E. 2d 458 (md. App. 1 Dist. 1993). And that a void judgment such as may be vacated at any time is one whose invalidity appears on face of judgment roll, Graff vs. Kelly, 814 P. 2d 489 (Oki. 1991).

WHEREAS claimed on record of lower courts, **my status and jurisdiction, pursuant to** 8 U.S.C.S. § 1503(a), 1101(a)(22)(A), **Hakhdar Preamble People-Posterity Citizen of the 1782—present "seal" United States Republican Form of Government in the Family of Nations [**5 U.S.C.S. § 1501(1) Non-Partison**], pursuant to the Contitution of/for the United States (of America), Art. 4, sec. 1, and "on Relation of" court case 3:05CV2, U.S. District Court, W. Dist. of N.C.**

WHEREAS Before trail court I entered in the record my demand for Discovery and objection to proceedings based upon The Court erred in judgment by rendering Orders under the Color of Law, in violation of due process of law, where in a criminal procedure the accused shall have the right to Face

his accuser; and have the accuser with a complaint & signed Affidavit, under oath, testifying being a bona fide injured or damaged party; demanding a proper indictment by a grand jury, signed by an impartial judge, with proper service of the instrument through the office of the clerk. Court failed to have all the elements of the proper indictment of a crime for the Court to have STANDING or jurisdiction to proceed in such matters, ergo, its unlawful order and sentencing must be overturned pursuant to **Orner vs. Shalala**, 30 F. 3d 1307 (Colo. 1994), and Rule 29 of the Fed. R. Crim. P. The Court erred by failing to dismiss with prejudice the action of the STATE for abusive/malicious criminal process.

WHEREAS Appellant was never given the opportunity or benefit to have and present evidence documents for their defense that was refused by the courts, declaring any and all judgments from that court voidable which such action by the lower court voids any and all judgments that confirms any judgment of the lower courts, rendering it of no legal effect, pursuant to **Alicock vs. Allcock 437 N.E. 2d. 392 (111. App. 3 Dist. 1982).**

WHEREAS it is a perversion of law & justice when a court dismisses a case on mere technicality applying attorney Bar rules that are opposed to the sovereign People's Liberties, Rights, Privileges and Immunities, the Principles of Justice and American Juris Prudence.

Reasons for Granting Writ

This Petitioner/Affiant Victim petitions This Supreme Court to accept their fiduciary responsibility to have a meaningful review of the actions within the lower courts, to prevent Constitutional wrongs from continuing to be perpetrated within these lower courts, especially in criminal cases when Life and Liberty is at jeopardy.

The granting of and the acceptance of this Petition for Writ of Certiorari & Writ of Error of this Petitioner/Affiant Victim is of such great concern, gravity and importance to the public that will aide in the People having more confidence in the judiciary, being impartial and un-bias, which would aid in seeking of justice being served in this matter, by giving this Petitioner/Affiant Victim his rights to be heard for redress of his grievances; as provided for within the Constitution's First Amendment. [C.U.S.A – Bill of Rights] [Art. Of Confederation – Art. 4]

Argument

Petitioner establishes that the Order of the State lower court was in absent of all jurisdiction to render its unlawful and biases decision on May 10th, 2007; for want of jurisdiction of the subject matter, of the person, and to render particular judgement given, pursuant to F.R.C.P., Rule12(b)(1), O.C.G.A. 9-21-3, 9-11-4, 9-11-60, and my Judicial Notice, for which the lower courts forfeited, for its violation of this Petitioner's Civil Rights and violating the prohibitions and the protected guaranteed rights as was set forth and set up by the Constitutions of the State and the Constitution of the United States to guard against the very actions of courts.

Petitioner establishes the denial of Rights, to motion the court to dismiss for lack of jurisdiction, as an error & negligence of the court, based on disregard of my Judicial Notices.

Petitioner establishes that the Constitutional provision of the State of Georgia was not preserved which is an essential element of due process of law and without due process being given by the court all orders of the Court must be overturned as an error upon the Court warranting avoidance as prescribed by law.

Petitioner establishes that the alleged charging instrument was completely without merit and lacking the essential elements of a **4th, 5th, 6th, 7th, 8th, & 9th Amendments** and was facially flawed for it did not properly informed this Petitioner of the

nature and cause for which he and the Incompetent Co-Defendant/Nomme DeGare was being charged.

Petitioner establishes that all my demands and demands for discovery, was given before the court hearing, and was thrown out by the court, during trail, thereby, prejudice against my discovery, without holding the same standard for the allusive State's attorney, complying to discovery rules.

Petitioner was never properly informed, prior to the fraudulent and SHAM proceeding of the Court, which establishes the Unconstitutionality of process, and there by denial of Rights, ERGO, the Case and false charges of that court shall be thrown out as well, **as a matter of law**.

Petitioner establishes that based on the weight of the evidence as presented in the court, and on the transcript of the court, the courts/State failed to prove its case based on the preponderance of the evidence that Petitioner was guilty of any crime and that there was no injured party, i.e. THE STATE, the court had no jurisdiction to move and charge Petitioner with any charge and the STATE had no proper **STANDING** within this court proceedings to sustain the Court's ruling in these proceedings. No STANDING, NO JURISDICTION for the court to rule.

Petitioner establishes that the action of the court was not conducive of an officer of a court. And the record fully shows that said Appellant was coerced and Bullied into the signing of the courts document to enter a plea of a cohesive non-negotiable contract

that Petitioner under any other or different circumstances and situation would have not signed of his own "**FREE WILL**" and volition, and thereby, would not stand in commerce nor in any criminal proceeding within the United States of America.

Petitioner establishes the instrument in the proceeding failed to raise to a level of a crime, giving the lower court jurisdiction to proceed with charging a crime against the State.

Petitioner establishes that the lower court violated the 8th Amendment of the Constitution for excessive fees and Petitioner was not obligated nor the court could establish upon the face of the record that he owed; which is a directly against **Hale vs. Henkel**., US. 43;

Petitioner establishes that the lower court erred in judgment based on facts and conclusion of law by preponderance of the evidence in violation of the **Fed. R. Crim. P. 29** which proclaims that any Defendant within a Criminal procedure brought against them by the State, the State shall prove the guilt of an individual by the preponderance of the evidence or the State must acquit and dismiss its action or be in violation of this rule and the 14th Amendment and Due Process of Law; or suffer the consequences of the action of the State to be Void and dismissed **nunc pro tunc**.

The Court in **Yates vs. Village of Hoffman Estates**, Illinois, 209 F. Supp. 757 (N.D. Ill. 1962) held that "...it is not a judicial function for a judge to commit an intentional tort even though the tort

occurs in the court house...judge loses subject matter jurisdiction and the judge's orders are void, of no legal force or effect."

Appendix —A Opinions, Orders

[State Court of Georgia ~ May 10, 2007 Trail Court Judgment: **Adjudged Guilty on two counts; serve 12 months on probation, pay $1,370 plus court cost, complete 64 hours of community service, take a defensive driving course, pay $20 probation fee, $39 per month probation supervision fee. $40 court reporter fee.]**

STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA CRIMINAL ACTION NO.
Case No.: 07C87407
The State vs. AKHENATEN A. SIMBEY
OFFENSE(S): SPEEDING
o PLEA o OTHER DISPOSITION
o NEGOTIATED
o GUILTY ON COUNT(S)_
o NOLO CONTENDERE ON CQUNT(S) _
Fine Amount: $1,370
o JURY NON-JURY
Photo Cost:
o GUILTY ON COUNT(S)-Lo
NOT GUILTY ON COUNT(S)__
o NOLLE PROSEQUI ORDER ON COUNT(S)
o DEAD DOCKET ORDER ON COUNT(S) _
Drug Assessment:
POPIDF: Joshua's Law Crime Lab Fee:
Plus 10% Victim's Fund: Restitution:
Jail Staffing: Victims Assistance: --'-_
Brain & Spinal Injury Trust Fund:
Public Defender Fee:, _Probation User Fee: _
* Mandatory Assessment on All Fines. Total Amount Due: $1,399

IT IS CONSIDERED, ORDERED AND ADJUDGED BY THE COURT:

Defendant is to serve a sentence of __ hours / days 12 months on probation___months, consisting of _____hours/days/months in confinement, credit for Hours / days / months already served, and the remainder on Probation.

PROVIDED THAT:

(.) 1. The defendant, having been granted the privilege of serving all or part of the above-stated sentence on probation, hereby is sentenced to the following general conditions of probation: (A) not violate the criminal laws of any governmental unit; (B) avoid injurious and vicious habits especially alcohol intoxication and narcotics and other dangerous drugs unless prescribed lawfully; (C) avoid persons or places of disreputable or harmful character; (D) report to the Probation Officer as directed and permit each Officer to visit him/her at home or elsewhere; (E) work faithfully at suitable employment insofar as may be possible; (F) not change his/her present place of abode, move outside the jurisdiction of the Court, or leave the State for any period of time without prior permission of the Probation Supervisor; (G) support his/her legal dependents to the best of his/her ability.

,) 2.( )3.( ) 4.( ) 5.( ) 6.( )7.( ) 8.( ) 9.( )10.( )11:

Payment by defendant of the fine and costs in the amount of $, and restitution in the stipulated amount of $, shall be a condition of probation.

The defendant shall perform 64/hours of community service at times and places specified by the Probation Office.

The defendant shall report to the DeKalb County Jail on at__o'clock (a.m. Xp.m.).

Defendant is to attend a Risk Reduction Program and/or undergo alcohol and/or drug evaluation and treatment as directed by the Probation Office, and/or attend AA / NA times a week for months, and show proof of same to the Probation Office.
Defendant is to pay $39 per month supervision fee.
Defendant may work off fine and fees by performing community service at the rate of $ per hour.
Defendant is to submit to random screening of blood, breath, urine or other bodily substances, at Defendant's cost.
Defendant to complete approved Domestic Violence pervention Program and to return to court on ---'
at a.m./ p.m. to show compliance.
Non-Reporting Probation once all conditions are met. However, Defendant shall report for no less than months. Other:

SO ORDERED this 10 day of May, 2008'

/s/Janice Gordon/s/
Judge, State Court of DeKalb County

-NOTICE-

I have read or have had read to me the above conditions of probation and the Court's General Conditions of Probation. I understand that my probation is an alternative to a jail sentence. I also understand that my probation may be revoked, may be immediately arrested, and the balance of my probation served in jail if I fail to abide by these conditions.

/s/"Under, Threat, Duress & Coercion,S'L'M-Bey, All Rights Reserved/s/
Defendant

DEFENDANT sentencel-2007(rev)

Appendix —B Opinions, Orders

SECOND DIVISION
JOHNSON, P. J.,
PHIPPS and MIKELL, JJ.

NOTICE: Motions for reconsideration must be *physically received* in our clerk's office within ten
days of the date of decision to be deemed timely filed. (Court of Appeals Rules 4 and 37, September 5, 2002)
http://www.gaappeals.us/rules/

November 2, 2007

In the Court of Appeals of Georgia

A07A2175. SLMBEY v. THE STATE.

MIKELL, Judge.

Following a bench trial in which he appeared pro se, Akhenaten Amen'ra Slmbey, again acting pro se, appeals his conviction on two counts of speeding, contending in 14 enumerations of error that his conviction is void and in conflict with the law of the land. Because we conclude that Slmbey has abandoned his enumerated errors on appeal, we affirm.

Slmbey's brief fails to comport with the rules of this Court in fatal ways. His brief does not "contain a succinct and accurate statement of the proceedings below and the material facts relevant to the

appeal,"[1] nor does it state "the method by which each enumeration of error was preserved for consideration" on appeal.[2] Simbey has listed 14 enumerations of error, but the argument in his brief fails to follow the order and number of the enumeration of errors, as required by Court of Appeals Rule 25 (c) (1).[3] The argument itself does not even address each enumeration of error, but is instead a diatribe unrelated to the listed enumerations of error. As this Court has noted in the past, "[s]uch briefs hinder this [C]ourt in determining the substance and basis of an appellant's contentions both in fact and in law and may well prejudice an appellant's appeal regardless of the amount of leniency shown" to a pro se appellant.[4]

Further, Simbey has failed to support his enumerations of error with either citations to the record or citations to applicable case law, as required by our Rules.[5] Therefore, his 14 enumerations of

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[1] Court of Appeals Rule 25 (a) (1).

[2] Id

[3] Court of Appeals Rule 25 (c) (1) ("The sequence of arguments in the briefs shall follow the order of the enumeration of errors, and shall be numbered accordingly"). See *Salazar* v. *State*, 256 Ga. App. 50, 51 (2) (567 SE2d 706) (2002).

[4] *Salazar*, supra at 50.

[5] Court of Appeals Rule 25 (a) (1) ("The brief of appellant shall ... contain . . . the citation of such parts of the record or transcript essential to a consideration of the errors complained of"); Court of Appeals Rule 25 (a) (3) ("The brief of appellant shall ... contain the argument and citation of authorities").

error are deemed abandoned under Court of Appeals Rule 25 (c) (2);[6] he has waived appellate review of his claimed errors;[7] and we will not consider them.

Judgment affirmed. Johnson, P. J., and Phipps, J., concur.

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[6] Court of Appeals Rule 25 (c) (2) ("Any enumeration of error which is not supported in the brief by citation of authority or argument may be deemed abandoned").

[7] See *Johnson* v. *State*, 274 Ga. App. 848 (1) (619 SE2d 488) (2005); *Kelly* v. *State*, 270 Ga. App. 380 (606 SE2d 586) (2004); *Salazar*, supra at 53 (4).

Appendix —C Opinions, Orders

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 03, 2007

The Court of Appeals passed the following order

Case No. A07A2175

AKHENATEN AMEN' RA SLMBEY V. THE STATE

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 03, 2007

I certify that the above is a true exact from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written,

Clerk.

/s/ William L. Martin III. /s/

[NO SEAL(S)]

Appendix —D Opinions, Orders

SUPRME COURT OF THE STATE OF GEORGIA

CLERK'S OFFICE

ATLANTA

Date: March 31, 2008

Akhenaten A. Slmbey
P.O. Box 10559
Atlanta, GA. 30310

Case No. S08C0651

AKHENATEN AMEN' RA SLMBEY v '. THE STATE

COURT OF APPEALS CASE NO. A07A2175

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

_____

_____

_____

_____

Therese S. Barnes, Clerk

[NO SIGNATURE(S) OR SEAL(S)]

Appendix —E Opinions, Orders

Seal of the SUPREME COURT OF GEORGIA 1845 – (top left hand corner)

SUPREME COURT OF GEORGIA – (CAPTION)
Case No. S08C0651

Atlanta May 19. 2008

The Honorable Supreme Court met pursuant to adjournment. The following order was passed.

AKHENATEN AMEN 'RA SLMBEY v. THE STATE

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

It is further ordered that the Motion to Stay Remittitur and Supersedeas are denied.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, **Atlanta**

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

/s/Leanette Gidson /s/,Depty Clerk

Seal of the SUPREME COURT OF THE STATE OF GEORGIA 1845 – (bottom left hand corner adjacent signature)

Appendix —F Relevant Findings

COMMUNITY SERVICE ASSIGNMENT

NAME: *Akhenaten Simbey* DOB:11/26/58
ADDRESS: *1929 S. Gordon St. Atlanta, Ga. 30310*
P/FILE NO.: *07 03637* CASE NO.:07C87407
OFFENSE: Speeding (2ct)
PROBATION OFFICER: 27
PHONE NUMBER:404)805-6926 START DATE.____
PROJECTED COMPLETION DATE:_____
YOU WERE ORDERED TO PERFORM 64 HOURS OF COMMUNITY SERVICE, YOU ARE TO REPORT TO:
x WEEKEND TRASH PATROL, **REPORT TO THE SHERIFF'S DEPUTIES AT THE DEKALB COUNTY JAIL, LOWER PARKING LOT, NO LATER THAN 7: 30 AM AND PRINT YOUR NAME ON THE SIGN IN SHEET. ROLL CALL WILL BE HELD PROMPTLY AT 7:45 AM.** YOU WILL NOT BE ALLOWED TO SIGN IN OR WORK IF YOU ARRIVE AFTER 7:45 AM. YOU WILL BE SENT HOME AND NO CREDIT RECEIVED FOR THAT DAY. TARDINESS WILL NOT BE EXCUSED. NO EXCEPTIONS TO THIS POLICY ALLOWED.

x WEEKDAY WORK PROGRAM, **REPORT AT 7:15 AM TO THE PROGRAMS UNIT LOCATED ON THE SECOND FLOOR OF THE CENTRAL DEKALB PROBATION OFFICE, LOCATED AT 547 CHURCH STREET, DECATUR, GEORGIA AND PRINT YOUR NAME ON THE SIGN IN SHEET.** YOU WILL NOT BE ALLOWED TO SIGN

IN FOR A WORK DETAIL AFTER 7:45 AM, YOU WILL BE SENT HOME AND NO CREDIT RECEIVED FOR THAT DAY. TARDINESS WILL NOT BE EXCUSED. NO EXCEPTIONS TO THIS POLICY ALLOWED.

__ COURTHOUSE PATROL, **REPORT TO THE OEKALB COUNTY PROBATION OFFICE AT 8:15 AM AND SIGN IN WITH THE RECEPTIONIST AT THE FRONT DESK.** YOU WILL NOT BE ALLOWED TO SIGN IN FOR THIS DETAIL AFTER 8:30 AM, YOU WILL BE SENT HOME AND NO CREDIT RECEIVED FOR THAT DAY. TARDINESS WILL NOT BE EXCUSED. NO EXCEPTIONS TO THIS POLICY ALLOWED.

_ _____WITH THE_____
AT , WITHIN FIVE (5) WORKING DAYS TO ARRANGE YOUR COMMUNITY SERVICE SCHEDULE, THEIR ADDRESS IS_____

___ A **NON-PROFIT AGENCY,** IN YOUR AREA, TO ARRANGE COMMUNITY SERVICE. THE AGENCY MUST PROVIDE WRITTEN VERIFICATION OF COMMUNITY SERVICE PERFORMED WITHIN DAYS.

THE FOLLOWING RULES AND REGULATIONS WILL BE STRICTLY ENFORCED!

1. YOU WILL RECEIVE ONLY EIGHT (8) HOURS CREDIT FOR EACH FULL DAY YOU WORK PERFORMED.

2. DO NOT WEAR SHORTS, OBSCENE T-SHIRTS, TANK TOPS, OR SANDALS AND DRESS APPROPRIATELY FOR WEATHER CONDITIONS.
3. DO NOT BRING FIREARMS, KNIVES OR WEAPONS OF ANY KIND TO THE WORK SITE. ANY WEAPONS BROUGHT TO THE WORK SITE ARE SUBJECT TO CONFISCATION AND/OR DESTRUCTION.
4. DO NOT BRING BOOK BAGS, BACKPACKS, DUFFLE BAGS, RADIOS, HEADPHONES, TELEPHONES, PAGERS OR OTHER DEVICES TO THE WORK SITE. ALL BOOK BAGS, BACKPACKS OR OTHER ITEMS WILL BE SUBJECT TO SEARCH OR CONFISCATION.
5. BRING A SACK LUNCH IN A CLEAR OR SEE THROUGH PLASTIC BAG, WATER WILL BE PROVIDED.
6. YOU MUST WORK A MINIMUM OF EIGHT (8) HOURS PER WEEK AND COMPLETE THE ASSIGNED SHIFTS. YOU ARE RESPONSIBLE FOR ENSURING THAT YOUR HOURS ARE PROPERLY DOCUMENTED BY SIGNING ALL REQUIRED TIME OR ~TTENDANCE SHEETS.
7. YOU MUST COOPERATE WITH THE SUPERVISOR (S) AT THE WORK SITE. NO HORSEPLAY, OBSCENE LANGUAGE, HARASSMENT OR OBSCENE GESTURES WILL BE TOLERATED. YOU ARE NOT TO BE DISRUPTIVE OR INTERACT WITH COWORKERS, PEDESTRIANS, OR PASSENGERS IN PASSING VEHICLES.
8. REPORT TO YOUR ASSIGNMENT REGARDLESS OF WEATHER CONDITIONS.

9. YOU MUST WEAR VESTS OR OTHER PROTECTIVE GEAR PROVIDED AT THE WORK SITE.
10. FAILURE TO COMPLY WITH ANY OF THE ABOVE MAY RESULT IN TERMINATION FROM THE. PROGRAM AND THE PROBATION OFFICER REQUESTING A WARRANT FOR YOUR ARREST.
11. NO AGENCY, AUTHORITY, OR EMPLOYEE OF ANY AGENCY OR AUTHORITY INVOLVED WILL BE RESPONSIBLE FOR THE LOSS OR DAMAGE OF PERSONAL PROPERTY OR FOR PERSONAL INJURY.
12. EQUIPMENT ISSUED TO YOU IN THE PERFORMANCE OF COMMUNITY SERVICE MUST BE RETURNED IN ORDER FOR YOU TO RECEIVE
CREDIT FOR THE HOURS WORKED.
I_____ACKNOWLEDGE EXPLAINED THE ASSIGNMENTS/RULES/REGULATIONS AND I UNDERSTAND THEM AND HAVE RECEIVED A COPY.

DATE:_____ PROBATIONER:***s/Without Predjudice, Threat, Duress, Coercion/s/***

Appendix —G Relevant Findings

DEKALB STATE OF GEORGIA COUNTY
STATE COURT PROBATION DEPARTMENT
CONDITIONS OF' PROBATION

STATE OF GEORGIA vs Akhenaten A. Simbey
CRIMINAL ACTION NUMBER: 07C87407
PROBATION FILE NUMBER: 07-03637
OFFENSE (S): *2ct. Speeding*

YOU WERE GRANTED PROBATION BY THE COURT AND ARE HEREIN FURNISHED A COPY OF THE CONDITIONS OF PROBATION. VIOLATION OF ANY OF THESE CONDITIONS MAY RESULT IN YOUR ARREST OR REVOCATION OF YOUR SENTENCE. CONDITIONS ARE AS FOLLOWS:

1. YOU ARE NOT TO VIOLATE THE LAWS OF ANY GOVERNMENTAL UNIT. 2. YOU ARE TO AVOID INJURIOUS AND VICIOUS HABITS-ESPECIALLY ALCOHOL INTOXICATION AND NARCOTICS OR OTHER DANGEROUS DRUGS UNLESS PRESCRIBED LAWFULLY. 3. YOU ARE TO AVOID PERSONS OR PLACES OF DISREPUTABLE OR HARMFUL CHARACTER. 4. REPORT TO THE PROBATION OFFICER AS DIRECTED AND PERMIT SUCH OFFICER TO VISIT YOU AT HOME OR ELSEWHERE. 5. WORK FAITHFULLY AT SUITABLE EMPLOYMENT INSOFAR AS MAY BE POSSIBLE. 6. DO NOT CHANGE YOU PLACE OF RESIDENCE, MOVE OUTSIDE THE JURISDICTION OF THE COURT OR LEAVE THE STATE FOR ANY PERIOD OF TIME WITHOUT

PRIOR PERMISSION OF THE PROBATION OFFICER. 7. SUPPORT YOUR LEGAL DEPENDENTS TO THE BEST OF YOUR ABILITY.

SPEGIAL CONDITIONS OF PROBATION ARE AS FOLLOWS:

x PERFORM ***64*** HOURS OF COMMUNITY SERVICE AS DIRECTED.

__ ATTEND A DRIVER IMPROVEMENT/RISK REDUCTION PROGRAM.

__ UNDERGO A EVALUATION AND SUCCESSFULLY COMPLETE

__ ANY TREATMENT REQUIRED, INCLUDING ANY AFTERCARE, AS DIRECTED.

__ ATTEND MEETINGS TIMES PER AND PROVIDE PROOF.

__ ATTEND AND SUCCESSFULLY COMPLETE A COURT APPROVED DOMESTIC VIOLENCE INTERVENTION PROGRAM AS DIRECTED BY THE PROBATION OFFICER.

__ YOU ARE TO ATTEND AND SUCCESSFULLY COMPLETE THE PRISON AWARENESS PROGRAM.

x A-PAY A FINE AND FEES OF ***$1370*** , RESTITUTION OF $_____ , AND A

-- PROBATION SUPERVISION FEE OF ***$39*** PER MONTH, TO A MAXIMUM OF $_____. YOU ARE TO PAY THE THESE FUNDS AT THE RATE OF ***$268*** PER Month STARTING____/____/__ __AND EVERY THEREAFTER UNTIL PAID IN FULL.

__ YOU MAY PERFORM COMMUNITY SERVICE IN LIEU OF PAYING THE FINE AND FEES BY PERFORMING___HOURS OF COMMUNITY SERVICE AT THE RATE OF $___PER HOUR.

__ PAY CHILD SUPPORT IN THE AMOUNT OF $_____ PER_____ .

___ OTHER: ***Complete Defensive Driving Course***

___YOU ARE TO REPORT IN PERSON THE ***4th Thursday*** OF EACH MONTH, BETWEEN THE HOURS OF ***10*** AM TO ***1*** PM OR ***3*** PM TO ***6:30*** PM.

YOU MAY MAIL PAYMENTS PAYABLE TO:
DEKALB STATE COURT PROBATION
*****DO NOT MAIL CASH*****
*****NO PERSONAL CHECKS ACCEPTED*****
120 W. TRINITY PLACE, ROOM 308 CALLAWAY BLDG. DECATUR, GEORGIA 30030
YOUR PROBATION OFFICER IS: ***Wade***
TELEPHONE #: (404) 371-2980

THE CONDITIONS OF PROBATION HAVE BEEN READ AND EXPLAINED BY ***Wade*** AND I FULLY UNDERSTAND ALL THE CONDITIONS AND I HAVE RECEIVED A COPY THIS DATE.

DATE: ***5/18/07***

PROBATIONER'S SIGNATURE ***X /s/Without Prejudice, Threat, Duress,Coercion/s/***

Appendix —H Relevant Findings

DEKALB COUNTY STATE COURT
PROBATION DEPARTMENT
PROBATION REPORT NOTICE

STATE OF GEORGIA
vs
Akhenaten Simbey

Criminal Action No.: 07C87407

ADDRESS: 1929 S. Gordon Street
Atlanta Georgia, 30310
HOME TELEPHONE: (404) 805-69269
WORK TELEPHONE: ( )
Social Security No. _____ - _____ - _____

[the following in a stamp form]
RACE: ( ) Caucasian ( )Black
( )Hispanic 0 SEX: (/)Male ( ) Female

REPORT NOTICE
You have been granted probation by the Court in the above styled action.
YOU ARE HEREBY NOTIFIED THATYOU MUST REPORT, IN PERSON, TO THE:

DEKALB COUNTY STATE COURT
PROBATION DEPARTMENT
120 W. TRINITY PLACE
ROOM 308 CALLAWAY BUILDING
DECATUR, GEORGIA 30030
:(404) 371-2822

__x__ **YOU ARE INSTRUCTED TO REPORT TO THE ABOVE OFFICE ON** ***Friday 5-18-07*** **AT** ***9-11 am.***

OR

_____ **YOU ARE TO REPORT TO THE ABOVE OFFICE, WITHIN 3 DAYS OF YOUR RELEASE FROM CUSTODY, BETWEEN THE HOURS OF 9:00 A.M. AND 11 :30 A.M.**

YOUR FAILURE TO REPORT AS DIRECTED MAY RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST FOR THE VIOLATION OF THE TERMS OF YOUR PROBATION BEING .REVOKED.

The ***above*** **has been read and explained to me by** ***Real # 23*** **and I fully understand that I am to report to the** ***above*** **office as instructed.**

5-10-07
DATE

/s/Threat, Duress, Coercion,:S'L'M-Bey Without Predjudice O.C.G.A.-11-1-207/s/
SIGNATURE OF PROBATIONER

Appendix —I Relevant Findings

Constitutional Law, **12 Am. Jur: §446**. "The recent tendency moreover, disclosed by the decision of the Supreme Court... is to forbid any state to abridge any privilege or immunity of any United States Citizen of the United States in any state if privilege or immunity sought to be abridged is one arising from United States Citizenship." [Title 8 U.S.C.S., § 1503(a)], et. seq.

§ 456 "The first occurrence of the word 'privilege and immunity in American Constitutional history is to be found in the fourth of the Articles of the old Confederation. That document declared that 'to better secure the perpetual friendship and intercourse among the people of the different states... the free inhabitant (FreemAn of the State of North Carolina Republican Form of Government) of each of the states, paupers vagabonds, and fugitive from justice, excepted shall be entitled to all privileges and immunities (or **exemptions**) of free citizens...

33 Am. Jur: §38: "But the rule of strict construction should not be carried to the extreme of defeating a right to exemption where one is property within the exempt class."

§ 70, p. 386: "moreover, it has been held in a number of jurisdictions that where a statue ordinance declares that it shall be unlawful to perform certain acts thereby prohibited without a license and imposed a penalty for violations, contracts for the

performance of such acts are necessarily void and incapable of enforcement, and this without reference

to whether the object of the act is to protect the public or merely to raise revenue.